

ARTICLE 1. - INCORPORATION; FORM OF GOVERNMENT; POWERS OF THE CITY

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Section 1-1. - Incorporation.

The inhabitants of the City of Gloucester, within the territorial limits established by law, shall continue to be a body corporate and politic under the name "City of Gloucester."

Section 1-2. - Short Title.

This instrument shall be known and may be cited as the Gloucester Home Rule Charter.

Section 1-3. - Form of Government.

The administration of the fiscal, prudential, and municipal affairs of the city, with the government thereof, shall be vested in an executive branch, to consist of the mayor, and a legislative branch, to consist of the city council. The executive branch shall never exercise any legislative power, and the legislative branch shall never exercise any executive power. Although each branch has had conferred upon it by State law various areas of responsibility, the legislative branch is also responsible for the enactment of laws for the city, while the administrative branch is charged with the duties of carrying those laws into effect, securing their due observance and conducting the daily business affairs of the city.

State law reference— Allocation of powers in city government, M.G.L.A. c. 39, § 1.

Section 1-4. - Powers of the City.

Subject only to express limitations on the exercise of any power or function by a city in the constitution or statutes of the commonwealth, it is the intent and the purpose of the voters of Gloucester, through the adoption of the charter[,] to secure for the city all powers it is possible to secure under the constitution and statutes of the commonwealth, as fully and as completely as though each such power were specifically and individually enumerated herein.

State law reference— Limitation on local powers, M.G.L.A. Const. Amend. art. 2, 89; powers of cities and towns, M.G.L.A. c. 40.

Section 1-5. - Construction.

The powers of the city under the charter are to be construed liberally in favor of the city, and the specific mention of particular powers is not intended to limit in any way the general powers of the city as stated in section 1-4.

Section 1-6. - Intergovernmental Relations.

Subject only to express limitations in the constitution or statutes of the commonwealth, the city may exercise any of its powers or perform any function, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the commonwealth or any political sub-division or agency thereof or the United States government or any agency thereof.

ARTICLE 2 LEGISLATIVE BRANCH

Section 2-1. - Composition; Eligibility; Election and Term.

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Section 2-12. - Delegation of Powers.

Section 2-13. - Filling of Vacancies.

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Section 2-1. - Composition; Eligibility; Election and Term.

(a)

Composition — There shall be a city council consisting of nine members which shall exercise the legislative powers of the city. Four of these members, to be known as councilors at-large, are to be nominated and elected by and from the voters of the city, at-large. Five of the members, to be known as ward councilors, are to be nominated and elected by and from the voters of five city wards, one ward councilor to be elected from each such ward.

(b)

Eligibility — Any voter shall be eligible to hold the office of councilor. A ward councilor, notwithstanding his removal from one ward in the city to another during the term for which he was elected, may continue to serve and to perform his duties until the expiration of the term for which he was elected.

(c)

Election and Term — The term of office for councilors shall be for two years beginning the first secular day of January following their election and until their successors are qualified.

Code reference—City council generally, § 2-20 et seq.

Section 2-2. - Presiding Officer.

After a majority of the councilors-elect have been sworn they shall be called together by the city clerk, or in the absence of the city clerk, by the member present senior in years of service, who shall preside. The city council shall then elect, from among its members, by separate roll call votes, a president and a vice-president. A majority vote of the full council shall be necessary for such election. No other business shall be in order until such officers are elected. The president shall preside at all meetings of the city council, regulate the proceedings and decide all questions of order. He shall have such other powers and duties as may be provided by the charter, by ordinance or by vote of the city council. He shall have the same right to vote as any other city councilor. In the event of the absence or disability of the president[,] the vice-president shall act as president.

State law reference— Presiding officer of city legislative bodies, M.G.L.A. c. 39, § 2.

Section 2-3. - Compensation.

The city council shall, by ordinance, establish an annual salary for its members. No ordinance establishing or increasing such salary shall be effective, however, unless it shall have been adopted by a two-thirds vote during the first eighteen months of the term for which councilors are elected and it provides that such salary is to be effective at the commencement of the term of office of the next city council to be elected.

State law reference— Municipal salaries, M.G.L.A. c. 39, § 6A, c. 43, § 17A.

Section 2-4. - Prohibitions.

(a)

Appointment after Expiration of Term — No city councilor shall hold any compensated appointive city office or city employment during his term and until two years following the expiration of the term for which he was elected. This provision shall not prohibit a city officer or city employee who has taken a leave of absence from such office or employment from resuming his duties as such following service as a city councilor.

(b)

Interference in Administration — Except as may be otherwise authorized by the charter, no member of the city council, nor any committee of the city council, shall directly take part in the conduct of the administrative business of the city.

Section 2-5. - Exercise of Powers; Quorum; Rules of Procedure.

(a)

Exercise of Powers — Except as otherwise provided by law, by-laws or the charter, the legislative powers of the city council may be exercised in a manner determined by it.

(b)

Quorum — A majority of the city council shall constitute a quorum but a smaller number may meet and adjourn from time to time. The affirmative vote of a majority of the full council shall be necessary to adopt any appropriation order. While a quorum is present, any other motion or measure may be adopted by a

majority of not less than four affirmative votes, except as otherwise provided by the charter or by-law.

(c)

Rules of Procedure — The city council shall from time to time establish rules for its proceedings.

(i)

Regular meetings of the council shall be held at a time and place fixed by *approved City Council Rules of Procedures*.

(ii)

Special meetings of the city council shall be held at the call of the mayor, as provided in section 3-8(b), on the call of the president of the city council, or on the call of any three or more members, by written notice delivered in hand or, to the place of residence or business, *or receipt confirming electronic mail* of each member at least forty-eight hours, *excluding Saturday, Sunday and holidays*, in advance of the time set, and which includes notice of the subjects to be acted upon.

(iii)

Except as may be otherwise authorized by law, all sessions of the city council, and any committee thereof, shall be open to the public and to the press.

(iv)

Every matter which comes before the city council shall be put to a vote, the result of which shall be recorded.

(v)

A full, accurate, up-to-date record of the proceedings of the city council shall be kept and shall be open to inspection by the public. It shall include a record of each roll call vote.

(vi)

The city council shall, by ordinance, establish and maintain a list of specific kinds of council decisions, which will require an accompanying statement of purpose. The statement of purpose shall contain the reasons why the majority of the council voted, for or against. Such statements shall be entered upon the records of the city council, in full, for the purpose of providing guidance to future city councils regarding matters that might again be brought before the city council, matters that might be the subject of court action, or any other matter requiring an explanation of the intent of the city council when voting.

(Ref. of 11-8-1983)

State law reference— City council to adopt rules for its proceedings, M.G.L.A. c. 43, § 18(2).

Section 2-6. - Council Access to Information.

(a)

In General — The city council may make investigations into the affairs of the city and into the conduct and performance of any city agency, and for this purpose may subpoena witnesses, administer oaths, and require the production of evidence.

(b)

City Officers, Members of Multiple-Member Bodies, and City Employees — The city council may require any city officer, member of a multiple-member body or city employee to appear before it to give such information as the city council may require in relation to the municipal services, functions, powers or duties which are within the scope of responsibility of the said city officer, member of a multiple-member body or city employee.

- (c) *Mayor* — The city council may at any time require the mayor to provide it with specific information on any matter within its jurisdiction. The city council may require the mayor to appear before it, in person, to respond to written questions presented to him. The mayor may bring with him on such occasions any assistant, department head, city officer or city employee he deems necessary to assist him in responding to the questions posed by the city council. The mayor shall not be required to answer any questions not relevant to those presented to him in advance and in writing.
- (d) *Notice Requirements* — The city council shall give at least five days written notice to any person it shall require to appear before it under the provisions of this section. Notice under this section shall be by delivery in hand.
- (e) *Vote Required* — All actions in section 2-6 shall require a two-thirds (2/3's) vote of the full city council.
(Ref. of 11-3-1987)

Section 2-7. - City Clerk; City Auditor.

- (a) *Election* -- Not sooner than ninety days and no more than one hundred twenty days - (Approved 12/9/2002) following the date on which the city council has organized, it shall elect a city clerk and a city auditor to hold office for terms of two years and until their successors are qualified. The city council may remove either of said officials from office, for cause, before the expiration of their term by majority vote of the full city council. Any vacancies which may exist in said offices shall be filled by the city council for the balance of the unexpired term. *The city clerk and auditor report to and are supervised by the City Council. The assistant city clerk and assistant registrar of voters report to and are supervised by the city clerk. The assistant city auditor reports to and is supervised by the city auditor.*
- (b) *City Clerk* — The city clerk shall be the custodian of all records of the city, the keeper of vital statistics, and shall have such powers and duties with respect to the regulation and supervision of elections and the issuance of licenses as are provided by law. The city clerk may have such additional powers and duties as the city council may from time to time prescribe.
- (c) *City Auditor* — The city auditor shall keep and have charge of the accounts of the city. He shall regularly audit the books and accounts of all city agencies and shall have such other powers and duties with respect to the regulation of the financial affairs of the city as are provided by law. The city auditor may have such additional powers and duties as the city council may from time to time prescribe.

Code references—City clerk generally, § 2-60 et seq.; city auditor, § 2-100 et seq.

State law reference— Manner of election of city officers, M.G.L.A. c. 39, § 3, c. 43, § 18; city clerks generally, M.G.L.A. c. 41, § 12 et seq.; appointment and term of city clerks, M.G.L.A. c. 43, § 18(3); auditors generally, M.G.L.A. c. 41, § 48 et seq., c. 43, § 18.

Section 2-8. - Council Staff.

- (a)

Clerk of the Council — The city clerk shall serve as clerk of the council. The clerk of the council shall give notice of all meetings of the city council to its members and to the public, keep the journal of its proceedings, and perform such other duties as may be assigned by the charter, by ordinance or by other vote of the city council. The city council shall, by ordinance, establish a salary schedule and a job description for the clerk of the council.

Editor's note—

There is no subsection (b) to this section in the present city charter.

Section 2-9. - Council Standing Committees.

(a)

Designation of Committees -- There shall be three standing committees of the city council:

(i) A committee on Budget and Finance, to which may be referred by a simple majority vote of the full city council every matter which would involve an expenditure by the city.

(ii) A committee on Ordinances and Administration, to which may be referred by a simple majority vote of the full city council every matter which in the form of adoption is categorized an "ordinance," or the effect of which is of more than temporary significance, all matters the effect of which would be to alter the administrative structure of the city government and which shall have general oversight of the department of the city clerk.

(iii) A committee on Planning and Development, to which may be referred by a simple majority vote of the full city council all matters which affect land use, planning, zoning and other development of the city.

(b)

Membership — Each committee of the city council shall consist of three members of the city council appointed by the city council president to serve for the term for which the city council is elected. Each member of the city council shall serve on at least one standing committee of the city council.

(c)

Advisory Members — The standing committees of the city council may provide, by vote, for the appointment of voters of the city to serve as advisory members of the committee. Such advisory members, if appointed, shall have no power to vote.

(d)

General Powers — The city council may delegate the powers available to it under section 2-6 to any of its standing committees. Each standing committee may, in accordance with such rules as may be adopted by the city council, hold a public hearing on any matter which is referred to it and shall, within a time fixed by council rule, report on each matter which has been referred to it, in writing, a recommendation and the reasons therefore.

(Ref. of 11-3-1985)

Code reference—Boards, commissions, councils and committees, § 2-400 et seq.

Section 2-10. - Appointments to City Offices.

- (a) *Confirmation* — The mayor shall submit to the city council the names of all persons he desires to appoint to any city office, as a department head or as a member of a multiple-member body, except a position which is covered by the state civil service law or except as otherwise provided by this charter. The city council shall refer all such names as are submitted to the standing committee on ordinances and administration which shall investigate all such candidates for confirmation and make a report with recommendations to the full city council not less than seven nor more than twenty-one days following such referral. If the city council has taken no other action, said appointments shall become effective on the thirtieth day following the date the name has been received by the city council. The provisions of section 2-11(c) shall not apply to this section.
- (b) No un-elected appointee shall be appointed to more than one multiple member body, unless said board or commission is inter-related.
(*Ref. of 11-8-1983; Ref. of 11-5-1985*)

Code reference—Officers and employees generally, § 2-40 et seq.

Section 2-11. - Procedures.

- (a) *In General* — No measure shall be adopted on the date it is introduced, except in the case of special emergency involving the peace, health or the safety of the people or their property. Except as otherwise provided by the charter, every adopted measure shall be effective at the expiration of thirty-one days after adoption by the city council or at any later date specified therein. Measures not subject to referendum may become effective upon adoption. No ordinance shall be amended or repealed except by another ordinance adopted by the city council, or by the procedure for citizen initiative and referendum provided in article 9.
- (b) *Emergency Measures* — An emergency measure shall be introduced in the form and manner prescribed generally except that it shall be plainly designated as an emergency measure. A preamble which describes and declares that an emergency exists and which defines its nature in clear and specific terms shall first be separately voted upon and shall require the affirmative votes of two-thirds of the members of the full city council. Following such adoption of an emergency preamble the city council may, by a two-thirds vote, pass the measure with or without amendment at the meeting at which it was introduced. Emergency measures shall stand repealed on the sixty-first day following their adoption, unless a vote of the *City Council in conformity with the procedures for measures generally is passed extending it for a period not to exceed an additional sixty days, or an earlier date is specified in the measure.*
- (c) *Charter Objection* — On the first occasion that the question of adoption of any measure is put to the city council, except an emergency measure as defined in section 2-11(b), if a single member objects to the taking of the vote, the vote shall be postponed until the next meeting, regular or special. If when the matter is next brought before the city council for a vote four or more members object to the taking of a vote, the matter shall be further postponed for not less than an additional five days. This procedure shall not be used more than once for any measure notwithstanding any amendment to the original measure.

(d) *Council Reconsideration -- The clerk of the city council shall hold every measure adopted by the city council to the end of the next business day, with no exceptions, and if during said time notice of an intent to file a motion to reconsider the matter is filed with the clerk of the council by any member entitled to make such a motion, the measure shall be returned to the city council for further action. If no such statement of intent is filed with the clerk of the council he shall, at the end of that next business day forthwith present the matter to the mayor.*

(e) *Publication and Public Hearings Required -- Every proposed ordinance or loan order, except any submitted in conformity with section 2-11(b), shall be published once in full in at least one local newspaper and in any additional manner as may be provided by ordinance or by law. Such publication shall also state the time, not less than seven days following such publication, and the place at which the city council, or a standing committee of the city council, will hold a public hearing on said proposed ordinance or loan order.*

(f) *Publication of Adopted Measures -- After final adoption and approval by the mayor if required, all ordinances and loan orders and such other measures as the city council shall by ordinance direct, shall be published in full in a newspaper of general circulation in the city and/or by publication on the Municipal website.*

(g) *Publication, Exceptions -- If any measure required to be published in full by section 2-11 (e) or (f) exceeds in length eight octavo pages of ordinary print, then in lieu of such publication, the same may be published in a booklet or pamphlet and made available for distribution to any person requesting the same at the office of the city clerk and provided that notice of such publication and a summary of the contents thereof shall be published as otherwise provided in the said sections.*

(h) *Information to be Given New Members -- The president of the city council shall make available to each new member the minutes of the meetings for the four prior months and copies of any applicable laws, rules or regulations which govern the body. In addition, the president shall, within thirty days following any election of a new member, meet with the new member and provide such information and orientation to the duties of a city councilor as may be deemed necessary or desirable.*

(Ref. of 11-8-1983; Ref. of 11-3-1987)

State law reference— Procedures for passage of ordinances, M.G.L.A. c. 43, § 20 et seq.

Section 2-12. - Delegation of Powers.

The city council may delegate to one or more city agencies the powers vested in it by the laws of the commonwealth to grant and issue licenses and permits, and may regulate the granting and issuing of such licenses and permits by any such city agency, and may, in its discretion, rescind any such delegation without prejudice to any prior

action which has been taken.

Section 2-13. - Filling of Vacancies.

(a)

Councilor at Large — If a vacancy in the office of councilor at-large shall occur the vacancy shall be filled by the candidate for the office of councilor at-large at the preceding city election who received the highest number of votes without being elected and provided such person is willing to serve. If a person who received such highest number of votes is not willing to serve the other candidates in descending order of number of votes received shall be offered the vacancy until one accepts the office. If no such candidate is available the city council shall, within thirty (30) days following the date on which the vacancy is declared to exist, elect a suitable person from among the voters of the city to serve for the balance of the unexpired term. The city clerk shall certify the said candidate to the office of councilor at-large to serve for the balance of the unexpired term.

(b)

Ward councilor — If a vacancy in the office of ward councilor shall occur the vacancy shall be filled in the same manner as provided for councilors at-large, provided that the candidate who is willing to serve shall have received at least thirty percent (30%) of the total number of votes cast for the office of ward councilor in the ward for which the vacancy exists. If no such candidate is available the city council shall, within the thirty (30) days following the date on which the vacancy is declared to exist, elect a suitable person from among the voters residing in the ward to serve for the balance of the unexpired term. The city clerk shall certify the said candidate to the office of ward councilor to serve for the balance of the unexpired term.

(c)

In General — Whenever a vacancy exists on the council which is not filled when the next election occurs, the person at the city election who is elected to the seat in which the vacancy exists shall forthwith be sworn and shall serve for the balance of the then unexpired term, in addition to the term for which he was elected. If the vacancy is in the office of councilor at-large, it shall be filled by the person receiving the highest number of votes for the office who is not then a member of the city council.

(Ref. of 11-5-1985)

Section 2-14. - General Powers.

Except as otherwise provided by law or the charter, all powers of the city shall be vested in the city council which shall provide for their exercise and for the performance of all duties and obligations imposed on the city by law.

ARTICLE 3 EXECUTIVE BRANCH

Section 3-1. - Mayor; Qualifications; Term of Office; Compensation; Prohibitions.

Section 3-2. - Executive Powers; Enforcement of Ordinances.

Section 3-3. - Appointments by the Mayor. Section 3-4. - Certificate of Appointment. Section 3-5. - Removal of Officials. Section 3-6. - Temporary Appointments. Section 3-7. - Chief Administrative Officer

Section 3-8. - Communications; Special Meetings.

Section 3-9. - Approval of Mayor, Exceptions (Veto).

Section 3-10. - Temporary Absence of the Mayor.

Section 3-11. - Vacancy in Office of Mayor.

Section 3-1. - Mayor; Qualifications; Term of Office; Compensation; Prohibitions.

- (a) *Mayor, Qualifications* — There shall be a mayor, elected by and from the voters, who shall be the chief executive officer of the city. Any voter shall be eligible to hold the office of mayor. The mayor shall devote his full time to the office, that is, he shall not hold any other elective public office, nor shall he actively engage in any other business, occupation or profession during his service as mayor.
- (b) *Term of Office* — The term of office of the mayor shall be two years beginning on the first secular day of January following his election and until his successor is qualified.
- (c) *Compensation* — The city council shall by ordinance establish an annual salary for the mayor. No ordinance establishing or increasing such salary shall be effective unless it shall have been adopted in the first eighteen months of the term for which councilors are elected and it provides that such salary is to be effective at the commencement of the next term of office of the mayor.
- (d) *Prohibition* — No mayor shall hold any compensated appointive city office or city employment during his term and until two years following the expiration of the term for which he was elected.
(Ref. of 11-8-1983)

Code reference—Mayor generally, § 2-50 et seq.

State law reference— Compensation of mayor, M.G.L.A. c. 39, § 6A; mayor prohibited from holding other compensated office, M.G.L.A. c. 39, § 7.

Section 3-2. - Executive Powers; Enforcement of Ordinances.

The executive powers of the city shall be vested solely in the mayor, and may be exercised by him either personally or through the several city agencies under his general supervision and control. The mayor shall cause the laws, ordinances and orders for the government of the city to be enforced, and shall cause a record of all his official acts to be kept.

Section 3-3. - Appointments by the Mayor.

The mayor shall appoint all city officers, department heads and members of multiple-member bodies for whom no other method of appointment or selection is provided by the charter, excepting only officers serving under the school committee, officers appointed by state officials and persons serving under the city council. All such appointments made by the mayor shall be subject to review by the city council as provided in section 2-10. *The appointments of the Police Chief and Fire Chief shall be governed by the Code of Ordinances sections 17-16 to 17-18 as amended September 2010 and by Ordinances section 8-16 to 8-18 as amended January 2011.*

State law reference— Appointments of mayor subject to council approval, M.G.L.A. c. 39, § 1.

Section 3-4. - Certificate of Appointment.

In making his appointments the mayor shall sign and file with the city clerk a certificate substantially in the following form:

Certificate of Appointment

I appoint (name of appointee) to the position of (name of office) and I certify that (s)he is a person especially fitted by education, training or experience to perform the duties of the office and to assume the responsibilities which will devolve upon him/her, and that I make this appointment solely in the interest of the City of Gloucester.
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(signed) _____

Mayor

Section 3-5. - Removal of Officials.

The mayor may remove any person appointed under section 3-3 by filing a written statement with the city clerk setting forth in detail the specific reason or reasons *therefore*, a copy of which shall be delivered in hand, or mailed to the last known address of the person whose removal is sought, who may make a written reply, which if (s)he desires, may be filed with the city clerk and be a public record; but no such reply shall affect the action taken by the mayor unless the mayor so determines.

Section 3-6. - Temporary Appointments.

Whenever a vacancy in an office appointed by the mayor occurs, whether by reason of death, disability, resignation, removal or otherwise, the mayor may appoint the head of another city office or agency, or a city officer or city employee, or some other person to perform the duties of the office for a period not to exceed three months. Such temporary appointment shall not be subject to review by the city council as provided in section 2-10. Whenever a vacancy continues beyond three months, the mayor may make a second three months appointment, but no temporary appointment shall be continued for more than six months unless authorized by the city council.

Section 3-7. - Chief Administrative Officer

To aid him in performing the duties of his office the mayor shall, within sixty days following his inauguration, appoint, subject to the provisions of section 2-10, a *chief administrative officer* who is professionally qualified as a municipal administrator by virtue of education, training and previous experience. The *chief administrative officer* need not be a resident of the City of Gloucester.

The *chief administrative officer* shall assist the mayor in the preparation of an annual operating budget for all city agencies, and shall, in cooperation with the city auditor, administer the operating budget throughout the year. He shall assist the mayor and the heads of all city agencies in the development of a capital outlay program and the preparation of a capital improvement budget. The mayor may delegate to the *chief administrative officer* any power or duty which he has under the charter other than the power to veto measures adopted by the city council or the power to appoint or to remove city officers, members of multiple-member bodies and department heads. Under the supervision of the mayor the *chief administrative officer* shall be specifically responsible

for the following:

- (a) Coordination and supervision of all city agencies;
- (b) Submission of reports at such times as may be required;
- (c) Installation and maintenance of financial management and record keeping systems;
- (d) Conduct of a continuing study of the work of all city agencies and the preparation of management policies based on such studies;
- (e) Preparation of policy programs and ordinance recommendations affecting the management of the city;
- (f) Such other powers, duties and responsibilities as may be delegated to him by the mayor.

The delegation of any power or duty by the mayor to the *chief administrative officer* may be terminated by the mayor, at will, but all acts of the *chief administrative officer* pursuant to such delegation prior to any such revocation by the mayor shall be and remain the acts of the mayor.

Code reference—Officers and employees generally, § 2-40 et seq.

Section 3-8. - Communications; Special Meetings.

- (a) *Communications to the City Council* — Within six weeks following the start of each fiscal year the mayor shall submit to the city council, and make available for public distribution, a complete report on the financial and administrative activities of the city for the preceding fiscal year, as provided in section 7-13. He shall from time to time throughout the year, by written communications, keep the city council fully informed of the financial condition and administrative problems of the city and shall recommend to them such measures for their consideration as, in his judgment, the needs of the city require.
- (b) *Special Meetings of the City Council* — The mayor may at any time call a special meeting of the city council, for any purpose, by causing a notice of such meeting to be delivered in hand, to the place of business or residence, *or receipt confirming electronic mail* of each member of the city council. Such notice shall, except in an emergency of which the mayor shall be the sole judge, be delivered at least forty-eight hours in advance of the time set and shall specify the purpose or purposes for which the meeting is to be held.

(Ref. of 11-8-1983)

State law reference— Similar provisions, M.G.L.A. c. 39, § 4.

Section 3-9 . Approval of Mayor,Exceptions(Veto)

Every measure relative to the affairs of the city adopted by the city council, except

(a) measures relating to the internal affairs of the city council,

(b) memorial resolutions,

(c) emergency measures as defined in section 2-11(b),

(d) the budget and

(e) zoning issues,

shall be presented to the mayor for his approval. If the mayor does approve it, he shall signify his approval by signing it; if he does not approve it, he shall signify his disapproval by returning it with his objections, in writing to the city council. The city council shall enter the objections of the mayor upon its records and shall, forthwith reconsider such measure. If, on such reconsideration, two-thirds of the full council agree to pass the measure, it shall be considered approved. If any measure is not returned by the mayor within ten days following the day it is presented to him, it shall be considered approved. A filing with the clerk of the council shall be considered a return by the mayor to the city council. All votes taken on such returns by the mayor shall be by call of the roll.

Section 3-10. - Temporary Absence of the Mayor.

(a)

Acting Mayor — Whenever, by reason of sickness, absence from the city or other cause, the mayor shall be unable to perform the duties of his office for a period of three successive working days or more, the president of the city council shall be the acting mayor. In the event of the absence or disability of the president of the city council, the vice-president shall serve. In the event that the president or vice-president is unable to serve, a member of the city council in descending order of seniority on the council shall serve.

(b)

Powers of Acting Mayor — The acting mayor shall have all of the powers of the mayor except that he shall not make any permanent appointment or removal to or from any office unless the disability of the mayor shall have continued for more than sixty days, nor shall he approve or disapprove of any measure passed by the city council unless the time within which the mayor must act would expire before the return of the mayor. During any period in which the city council president, or vice president, is serving as acting mayor he shall not vote as a member of the city council.

(Ref. of 11-5-1985)

State law reference— Similar provisions, M.G.L.A. c. 39, § 5, c. 43, § 26.

Section 3-11. - Vacancy in Office of Mayor.

- (a) *Special Election* — If a vacancy in the office of mayor occurs *and* is declared in the first year of the term for which the mayor is elected, whether by reason of death, resignation, removal from office, incapacity or otherwise the city council shall forthwith order a special election to be held within ninety days following the date the vacancy is created, to fill such vacancy for the balance of the then unexpired term.
- (b) *Council Election* — If a vacancy in the office of mayor occurs in the second year of the term for which the mayor is elected, whether by reason of death, resignation, removal from office, incapacity or otherwise, the clerk of the council shall forthwith call a special meeting of the city council, and the city council shall, by majority vote, taken by roll call, elect one of its members for the balance of the unexpired term. If the city council fails to elect one of its members as mayor within fourteen days of the date of the meeting called by the clerk of the council the president of the council shall become mayor. Upon the election and qualification of any member of the city council as mayor, under this section, a vacancy shall exist in his seat on the council which shall be filled in the manner provided in section 2-13
- (c) *Powers, Term of Office* — The mayor elected under section 3-11(a) or (b) shall have all the powers of the mayor. He shall serve for the balance of the term unexpired at the time of his election to the office.
State law reference— Similar provisions, M.G.L.A. c. 43, § 26.

ARTICLE 4. - SCHOOL COMMITTEE ^[2]

- Section 4-1. - Composition; Eligibility; Election and Term.
- Section 4-2. - Officers of the School Committee.
- Section 4-3. - General Powers and Duties.
- Section 4-4. - Prohibitions.
- Section 4-5. - Filling of Vacancies.
- Section 4-6. - Exercise of Powers; Quorum; Rules of Procedure.
- Section 4-7. - Budget Hearing.
- Section 4-8. - Mayor to be Coordinator.
- Section 4-9. - Emergency Measures.
- Section 4-10. - School Committee Access to Information.

Section 4-1. - Composition; Eligibility; Election and Term.

- (a) *Composition* — There shall be a school committee consisting of seven members which shall exercise control and management of the public schools of the city. Six of these members, who shall be known as school committee members, shall be nominated and elected by and from the voters at-large. The mayor shall serve as the seventh member of the school committee, with full power to vote.
- (b) *Eligibility* — Any voter shall be eligible to hold the office of school committee member.
- (c) *Election and Term* — The term of office of school committee members shall be for two years, beginning on the first secular day of January following their

election and until their successors are qualified.

(*Rel. of 11-5-1985*)

State law reference— Similar provisions, M.G.L.A. c. 43, § 31.

Section 4-2. - Officers of the School Committee.

After a majority of the school committee members elect have been sworn the school committee shall be called together by the mayor, or in the absence of the mayor by the member present senior in years of service, who shall preside. The school committee shall then elect a chairman, a vice-chairman and a secretary, from among its members. The vice-chairman shall preside at all meetings of the school committee in the absence of the chairman and may perform such other duties as may be prescribed by vote of the school committee. The secretary shall keep the records of the committee. **Code reference—** Officers and employees generally, § 2-40 et seq.

Section 4-3. - General Powers and Duties.

The school committee shall have all of the powers and duties which school committees are given under the general laws. and may have such additional powers and duties as the city council may, from time to time, assign, by ordinance.

The School Committee shall make all reasonable rules and regulations for the management of the public schools of the city and for conducting the business of the school committee as may be deemed necessary or desirable.

To the extent permitted by State Law, - (Approved 12/9/2002) the powers of the school committee shall include, but need not be limited to the following:

- (a) to appoint a superintendent of schools, for a term not to exceed *three* years, who shall be charged with the day to day administration of the school system, subject to policy directives issued by the school committee;
- (b) *To appoint the school business administrator;*
State law reference- M.G.L.A. c. 71 sec. 41
- (c) *To appoint the director of special education of pupil personnel;*
State law reference- M.G.L.A. c. 71B sec. 3A
- (d) *Establish and appoint an assistant or associate superintendent upon the recommendation of the superintendent;*
State law reference- M.G.L.A. c. 71 sec. 59
- (e) *To appoint school physicians and registered nurses;*
State law reference- M.G.L.A. c. 71 sec. 53

- (f) *To appoint one or more supervisors of attendance;*
State law reference- M.G.L.A. c. 76 sec. 19

- (g) *Sub-sections (a), (b), (c), (d), (e) and (f) of Section 4-3 shall require a majority vote of the full School Committee*

The school committee shall furnish all school buildings with proper fixtures, furnishings and equipment and shall provide ordinary maintenance of all school buildings and grounds, provided however, that the city council may, by ordinance, provide for the establishment of a centralized purchasing system, which may provide for the inclusion of purchases made under authority of the school committee, and it may also provide, by ordinance, for the creation of a centralized maintenance department which may include maintenance of school buildings and grounds.

State law reference(s)--School committee to appoint superintendent of schools, M.G.L.A. c. 71 § 41; powers and duties of school committee, M.G.L.A. c 71 *et seq*

Section 4-4. - Prohibitions.

No school committee member, other than the mayor, shall hold any other city office or city employment under the jurisdiction of the school committee for which a salary or other emolument is payable from the city treasury while serving as a member of the school committee, or, until two years after the term for which he was elected has expired. This provision shall not prevent a person who has taken a leave of absence from such a position from returning to the same position after his term of office on the school committee has expired.

Section 4-5. - Filling of Vacancies.

If a vacancy in the office of school committee member shall occur, the vacancy shall be filled by the candidate for the office of school committee member at the preceding city election who received the highest number of votes without being elected and provided such person is willing to serve. If a person who received such highest number of votes is not willing to serve, the other candidates in descending order of number of votes received shall be offered the vacancy until one accepts the office. If no such candidate is available, the school committee shall, within thirty (30) days following the date on which the vacancy is declared to exist, elect a suitable person from among the voters of the city to serve for the balance of the unexpired term. The city clerk shall certify the said candidate to the office of school committee member to serve for the balance of the unexpired term.

Whenever a vacancy exists on the school committee which is not filled when the next election occurs, it shall be filled by the person receiving the highest number of votes for the office of school committee member. After said committee man [member] is certified as elected by the city clerk he shall forthwith be sworn in and shall serve for the balance of the then unexpired term, in addition to the term for which he was elected.

(Ref. of 11-5-1985)

State law reference— Filling vacancies on school committee, M.G.L.A. c. 43, § 36.

Section 4-6. - Exercise of Powers; Quorum; Rules of Procedure.

(a) *Exercise of Powers* — Except as otherwise provided by law or by the charter, the powers of the school committee may be exercised in the manner determined by it.

(b) *Quorum* — A majority of the school committee shall constitute a quorum. The affirmative vote of a majority of the full committee shall be necessary to adopt any financial measure. Except as otherwise provided by law or by the charter any other motion or measure may be adopted by a majority vote of those present.

(Ref. of 11-8-1983)

(c) *Rules of Procedure* -- The school committee may from time to time adopt rules governing its proceedings.

(i) *Regular meetings of the school committee shall be held at a time and place fixed by such rules.*

(ii) *Special meetings of the school committee shall be held on the call of the chair person of the school committee, or in his absence by the vice-chair person, acting as such, or by any two or more members. Notice of such meetings shall be by receipt confirming electronic mail, or delivery in hand to the place of residence or business of each member at least forty-eight hours, excluding Saturday, Sunday and holidays, in advance of the time set, except in case of emergency, of which the chairman of the school committee shall be the sole judge, when a lesser period shall suffice.*

(iii) *Except as may be otherwise authorized by law, all sessions of the school committee, and any subcommittee thereof, shall be open to the public and to the press.*

(iv) *A full, accurate, up-to-date record of the proceedings of the school committee shall be kept and shall be open to inspection by the public.*

[NEW]

Section 4-7. School Committee Standing Committees.

(a) *Designation of Committees* -- There shall be at least three standing committees of the school committee:

(i) *A committee on building and finance, to which may be referred by a simple majority vote of the school committee on matters which would involve school buildings, grounds and expenditures by the school department and related policies;*

(ii) *A committee on personnel, to which may be referred by a simple majority vote of the school committee matters which concern collective bargaining, contract negotiations, and benefits and related policies;*

(iii) *A committee on programs, to which may be referred by a simple majority vote of the school committee all matters which affect educational goals, and policies.*

(b) *Membership* -- Each committee of the school committee shall consist of three members of the school committee appointed by the school committee chair to serve for the term for which the school committee is elected. Each member of the

school committee shall serve on at least one standing committee of the school committee.

(c)

Advisory Members -- The standing committees of the school committee may provide, by vote, for the appointment of voters of the city to serve as advisory members of the committee. Such advisory members, if appointed, shall have no power to vote.

(d)

General Powers -- The school committee may delegate the powers available to it under section 4-11 to any of its standing committees. Each standing committee may, in accordance with such rules as may be adopted by the school committee, hold a public hearing on any matter which is referred to it and shall, within a time fixed by school committee rule, report on each matter which has been referred to it, in writing, a recommendation and the reasons therefore. The School Committee may create additional Standing Committees if needed.

Section 4-8. - Budget Hearing.

At least thirty days before the meeting at which the school committee is to vote on the budget request which it will submit to the mayor for inclusion in the budget he is required to submit to the city council, the school committee shall cause to be published in a local newspaper a general summary of its proposed budget. The summary shall indicate specifically areas of increase from the present budget, if any, and the reasons for such increases and a notice stating (1) the times and places where complete copies of the budget will be available for examination by the public and (2) the date, time and place, not less than seven nor more than fifteen days following such publication when a public hearing will be held by the school committee on the proposed budget.

The action of the school committee in adopting the budget, following the public hearing, shall be summarized and the results of a roll call vote taken on each amendment offered to the proposed budget shall be duly recorded.

Code reference—Finance generally, § 2-560 et seq.

Section 4-9. - Mayor to be Coordinator.

The mayor shall be responsible for the coordination of the activities of the school department with the activities of all other municipal agencies. He shall transmit all requests of the school committee which require action by the city council to the city council, and he shall, at the request of the city council, provide them with such information concerning such requests as may be deemed either necessary or desirable.

Section 4-10. - Emergency Measures.

An emergency measure shall be introduced in the form and manner prescribed generally except that it shall be plainly designated as an emergency

measure. A preamble which describes and declares that an emergency exists and which defines its nature in clear and specific terms shall first be separately voted upon and shall require the affirmative votes of two-thirds (2/3rd's) of the members of the school committee. Following such adoption of an emergency preamble the school committee may, by a two-thirds (2/3rd's) vote, pass the measure with or without amendment at the meeting at which it is introduced. Emergency measures shall stand repealed on the sixty-first day following their adoption, unless an earlier date is specified in the measure or unless a second emergency measure adopted in conformity with this section is passed extending it, or a measure adopted in conformity with the procedures used for measures generally [is] passed extending it.

(Ref. of 11-5-1985)

Section 4-11. - School Committee Access to Information.

- (a) *In General* — The school committee may make investigations into the affairs of the school system and into the conduct and performance of any agency under their jurisdiction, and for this purpose may subpoena witnesses, administer oaths, and require the production of evidence.
- (b) *City Officers, Member of Multiple-Member Bodies and City Employees* — The school committee may require any city officer, member of a multiple-member body or city employee to appear before it to give such information as the school committee may require in relation to the municipal services, functions, powers or duties which are within the scope of responsibility of the said city officer, member of a multiple-member body or city employee.
- (c) *Mayor* — In matters under its jurisdiction the school committee may at any time require the mayor to provide it with specific information on any matter within its jurisdiction. The school committee may require the mayor to appear before it, in person, to respond to written questions presented to him. The mayor may bring with him on such occasions any assistant, department head, city officer or city employee he deems necessary to assist him in responding to the questions posed by the school committee. The mayor shall not be required to answer any questions not relevant to those presented to him in advance and in writing.
- (d) *Notice Requirements* — The school committee shall give at least five days written notice to any person it shall require to appear before it under the provisions of this section. Notice under this section shall be by delivery in hand.
(Ref. of 11-5-1985)
- (e) *Vote Required* -- All actions in section 4-11 shall require a majority vote of the full school committee.

FOOTNOTE(S):

⁽²⁾ Code reference—School committee generally, § 18-20 et seq. ([Back](#))

⁽²⁾ State Law reference— Provisions relating to school committees, M.G.L.A. c. 71; M.G.L.A. c. 43, § 31 et seq. ([Back](#))

ARTICLE 5. PLANNING AND COMMUNITY DEVELOPMENT

Section 5-1. - The Planning Process.

Section 5-2. - Planning Board.

Section 5-3. - Community Development Department.

Section 5-4. - Designer Selection Committee.

Section 5-5. - City Building Committee.

Section 5-1. - The Planning Process.

- (a) *Overview* — Planning for the city shall be considered an on going process where economic development, environmental protection, and preservation of the city's heritage and neighborhood identity are balanced through citizen involvement and professional guidance.
- (b) *Community Development Plan* — The planning board shall prepare a community development plan as authorized by MGL chapter 41, section 81-D. Said plan shall set forth community development land use and development *in accordance with applicable statutes and state laws*. The mayor and city council shall be provided with copies of the community development plan for their review and consideration.
- (c) *Land Use and Development Regulations* — In accordance with applicable provisions of the general laws, the city council may, by ordinance, adopt land use and development regulations, including, but not limited to, an official map and zoning ordinance.
- (d) *Capital Improvement Program* — A capital improvement program shall be prepared *annually* for the mayor's review and approval by the community development department with the advice of the planning board and the capital improvements advisory board. The capital improvement program shall set forth the schedule for land acquisition, utility expansion or replacement, and major building projects for the next five years. The program shall include an explanation and cost projection for each item as well as expected funding sources for each item scheduled for the current year. In the course of preparing the capital improvement program, the community development department shall contact all city agencies and departments to solicit project proposals. The mayor shall annually submit the updated capital improvement program to the city council for its review and recommendation.
- (e) *Actions by Mayor, City Council and Multi-Member Bodies* — The mayor, city council and all multi-member bodies shall seek to ensure that their actions and decisions are consistent with the community development plan, the official map, and the capital improvements program. If any such office, agency or board deems it essential to take an inconsistent action or decision, it shall transmit to the planning board a statement in writing, explaining the necessity, prior to the taking of the action or decision.

(*Ref. of 11-5-1985*)

Section 5-2. - Planning Board.

- (a) *Authority and Purpose* — The planning board, authorized and formed pursuant to MGL chapter 41, sections 81A—81J, shall be the city's primary agency

responsible for the establishment of planning and community development policy. In addition to its statutory responsibilities, the planning board shall formulate policies which guide land use and the development of municipal facilities, and educate the public and other multi-member bodies with respect to those policies.

(b)

Relationship to Mayor, City Council and Community Development Department — The planning board, on its own initiative, or as requested by the mayor or city council, shall study issues or projects related to the development of the city and present its findings and recommendations to the mayor or city council. The planning board and community development department shall work cooperatively on all such studies.

(Ref. of 11-5-1985)

Section 5-3. - Community Development Department.

(a)

Purpose — There shall be established a community development department responsible for coordinating the physical growth and economic development of the city as well as the development of municipal facilities.

(b)

Structure — The community development department shall consist of several divisions, one of which shall be the planning division, to be headed by a professional city planner.

(c)

Responsibilities — The community development department shall:

(i)

Advise the mayor on all matters affecting the development of the city;

(ii)

Formulate and recommend to the mayor and planning board specific measures for the development of the city;

(iii)

Review and make recommendations to the city council regarding measures considered by it which affect the development of the city;

(iv)

Assist the planning board in the exercise of its responsibilities and in connection therewith to provide all necessary staff assistance;

(v)

Assist other multi-member bodies which are involved with the physical development of the city or development of municipal facilities;

(vi)

Maintain an inventory of all city-owned real property, rights-of-way, town landings, water bodies, water courses, and water ways, a record of the use to which each is being put and a record of the city agency responsible for the management of it; *and said inventory shall be updated annually and made available electronically and by paper.*

(vii)

Assist with the preparation of the mayor's capital improvement program; and

(viii)

Exercise such other powers, duties and responsibilities as may be provided for by both the Gloucester Code of Ordinances and the Gloucester Zoning Ordinances.

(d)

Community Development Director — The community development department shall be managed by a director of community development who shall be

appointed by the mayor, after review and recommendation by the planning board, and confirmed by the city council.

The community development director shall hold an advanced degree in planning or public administration and have a minimum of six (6) years increasingly responsible experience in municipal planning, community development or management.

(Ref. of 11-5-1985)

Section 5-4. - Designer Selection Committee.

(a)

Composition, Mode of Selection, Term of Office — There shall be a designer selection committee which shall consist of three persons appointed by the mayor for each new project. In making his appointments to the committee the mayor shall seek to assure representation from as many of the following areas as is possible: architecture, landscape architecture, construction industry, art and finance.

(b)

Powers and Duties — Whenever an architect, or designer, is to be engaged by the city for any reason the designer selection committee shall be consulted and shall make the selection. All designers and architects in charge of a project shall be registered.

(Ref. of 11-5-1985)

Section 5-5. - City Building Committee.

(a)

Composition, Mode of Selection, Term of Office — Whenever an architect, or designer, is engaged by the city a city building committee shall be established for that project which shall consist of seven members appointed by the mayor for terms of three years each so arranged that the term of office of as nearly an equal number as is possible shall expire each year, provided however, that upon the completion of any project for which a committee is appointed under this section the terms of all members shall be terminated and the committee dissolved. In making his appointments to the committee the mayor shall assure representation from the following fields: the construction industry, the building trades, the municipal agency which will be responsible for the facility upon its completion, a person familiar with the use of such facilities in general, and three representatives of the public at-large.

(b)

Powers and Duties — The committee shall be the representative of the city in all dealings with the architect, or others. *The dealings of the Committee are subject to the pertinent authority of the Mayor and Chief Procurement Officer as provided elsewhere in the Charter and statutes. The authority of the Committee shall include but not be limited to the following:* preparation of all bidding documents; supervision of public bidding process; award of contract to successful bidder; compliance with the program and time requirements of the city; evaluation of the quality, appropriateness and functional attributes of the architect's solution or proposal; periodic meetings with the architect and builder to assure compliance as the project moves forward; review of all change orders during the construction phase; and all other powers and duties as are necessary and appropriate.

(Ref. of 11-5-1985)

FOOTNOTE(S):

⁽³⁾ *Code reference—Planning generally, ch. 16* [\(Back\)](#)

⁽³⁾ *Editor's note— Prior to its amendment approved at referendum November 5, 1985, article 5, §§ 5-1—5-3, pertained to the comprehensive plan, as derived from the original Charter approved on November 4, 1975.* [\(Back\)](#)

ARTICLE 6 FINANCIAL PROCEDURES

Section 6-1. - Submission of Budget, Budget *Summary*

Section 6-2. - Action on the Budget.

Section 6-3. - Independent Audit.

Section 6-1. Submission of Budget, Budget *Summary*

Within the period prescribed by state statute, the mayor shall submit to the city council a proposed budget for the ensuing fiscal year which shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year, an accompanying budget message, and supporting documents.

The mayor's *summary* shall explain the budget for all city agencies both in fiscal terms and in terms of work programs. It shall outline the proposed financial policies of the city for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current fiscal year in financial policies, expenditures, and revenues, together with the reasons for such changes, summarize the city's debt position, and include such other *pertinent* material as the mayor deems desirable or the city council may reasonably require.

State law reference— Submission of budget to city council, M.G.L.A. c. 44, § 32.

Section 6-2. - Action on the Budget.

(a)

Public Hearing — The city council shall, within seven days following its receipt of the proposed budget, publish in one or more local newspapers the general summary of the proposed budget as submitted by the mayor and a notice stating: (1) the times and places where copies of the proposed budget are available for inspection by the public, and (2) the date, time, and place, not less than two weeks after such publication, when a public hearing on said proposed budget will be held by the city council or a standing committee of the city council.

(b)

Adoption — The city council shall adopt the budget, with or without amendments, within forty-five days following the day the budget is received by it. In amending the budget, the city council may delete or decrease any programs or amounts except expenditures required by law or for debt service. If the city council fails to take action with respect to any item in the budget within forty-five days after receipt of the budget, such amount shall, without any action by the city council, become a part of the appropriations for the year and be available for the purposes specified.

(c)

Publication – Within forty-five days of adoption a detailed line-item budget shall be published electronically.

(Ref. of 11-8-1983)

State law reference— Procedures for approval, rejection or alteration of budget, M.G.L.A. c. 44, § 32. and M.G.L.A. c. 44, sec. 33

Section 6-3. - Independent Audit.

At least once in every two years an outside audit of the books and accounts of the city shall be made. In the event that the commonwealth shall fail in any such period to provide for such an audit to be conducted, within sixty days following the date a written request for them to do so is made by the city council, the city council shall provide for such an audit to be made by a certified public accountant, or firm of such accountants, who have no personal interests, direct or indirect, in the fiscal affairs of the city government or any of its officers.

State law reference— Municipal auditing, M.G.L.A. c. 44, § 35 et seq.

FOOTNOTE(S):

⁽⁴⁾ *Code reference—Finance generally, § 2-560 et seq. [\(Back\)](#)*

⁽⁴⁾ **State Law reference**— Municipal finance, M.G.L.A. c. 44. [\(Back\)](#)

ARTICLE 7 ADMINSTRATIVE ORGANIZATION

Section 7-1. - Reorganization Plans by City Council.
Section 7-2. - Reorganization Plans by Mayor.
Section 7-3. - Publication of Reorganization Plan.
Section 7-4. - Multiple-Member Bodies, Composition, Term of Office.
Section 7-5. - Expiration of Terms.
Section 7-6. - Notice of the Expiration of Terms.
Section 7-7. - Information to be Given New Appointees.
Section 7-8. - Applications to be Public; Exceptions.
Section 7-9. - Meetings with City Council.
Section 7-10. - Relations with Standing Council Committees.
Section 7-11. - Political Activity.
Section 7-12. - Management Audits.
Section 7-13. - Annual Report of the City.
Section 7-14. - Loss of Office, Excessive Absence.
Section 7-15. - Personnel Practices.
Section 7-16. - Director of Public Works.
Sections 7-17, 7-18. - Reserved.
Section 7-19. - Reports of the City Treasurer.

Section 7-1. - Reorganization Plans by City Council.

Except as otherwise provided by law or the charter, the city council may by

ordinance, reorganize, consolidate, or abolish any existing city agency in whole or in part, establish new city agencies, and prescribe the functions of any city agency. All city agencies under the direction and supervision of the mayor shall be headed and administered by officers appointed by him.

Section 7-2. - Reorganization Plans by Mayor.

(a)

Submission — The mayor may, from time to time, prepare and submit to the city council reorganization plans which may, subject to applicable law and the charter, reorganize, consolidate, or abolish any city agency, in whole or in part, or establish new city agencies, as he deems necessary or expedient. Such reorganization plans shall be accompanied by an explanatory message when submitted.

(b)

Adoption — Every such reorganization plan shall, upon receipt by the clerk of the council, be referred to an appropriate standing committee of the city council. The city council shall, not more than *forty five days* later, hold a public hearing on the matter and the committee to which it was referred shall, within *thirty days* following such hearing, issue a report stating either that it approves or that it disapproves of the plan. A reorganization plan shall become effective *one hundred twenty days* after the date it is received by the city council unless the city council has prior to that date, voted to disapprove the reorganization plan. A reorganization plan presented by the mayor to the city council under this section, may not be amended by it, but shall either be approved or rejected as submitted and shall not be subject to the objection as provided in section 2-11(c).

Section 7-3. - Publication of Reorganization Plan.

An up-to-date record of any reorganization plan under this article shall be kept on file in the office of the city clerk and copies of all such plans shall be included as an appendix in any publication of the ordinances of the city.

Section 7-4. - Multiple-Member Bodies, Composition, Term of Office.

Except as otherwise directed by law, all multiple-member bodies shall consist of three or more members appointed for terms of three years each, so arranged that the term of one third of the members, or as nearly that number as may be, shall expire each year.

Code reference—Boards, commissions, councils and committees generally, § 2-400 et seq.

Section 7-5. - Expiration of Terms.

Every appointment to city office shall begin on the fifteenth day of February for the term specified in the charter, or by ordinance, and shall continue until a successor is chosen and qualified, but in no case longer than six (6) months when the office shall be declared vacant.

(Ref. of 11-3-1987)

Section 7-6. - Notice of the Expiration of Terms.

(a)

Multiple-Member Bodies — Whenever a vacancy occurs on a multiple-member body, whether because of a death, a resignation, removal from the city or the pending expiration of a term for which a person has been appointed public notice of the vacancy or pending expiration of the term shall be given in the following manner:

(i)

By publication in a local newspaper or *City's website*, by title, length of term, brief description of duties and a general indication of the qualities or attributes desired of candidates. Such notice shall also state the time within which persons who desire to be considered for appointment to such offices shall file a statement of interest, with whom, and shall indicate the form on which such application should be made.

(ii)

A copy of all such notices shall be posted in one or more public places within the city.

(iii)

At least twice a year a list containing all of the information in (i) above shall be sent to each organization in the city which has filed its name and mail address with the city clerk, and a request in writing, to receive such information.

(b)

City Office — Whenever a vacancy occurs in a city office, but not including the expiration of a fixed term of office when re-appointment of the incumbent is to be made, notice of the vacancy shall be given in the manner provided in (a)(i) and (ii) above and by publication in appropriate professional newsletters, journals and other publications.

Section 7-7. - Information to be Given New Appointees.

In order to acquaint new members of multiple-member bodies with the work which will come before them, the chairman of each such body shall make available to each new member, the minutes of the meetings for the two prior years and copies of any applicable laws, rules or regulations governing the body. In addition, the chairman shall, within thirty days following any new appointment, meet with the new member and provide such orientation to the duties and responsibilities as may be deemed necessary or desirable.

Section 7-8. - Applications to be Public; Exceptions.

All applications for appointment to any city office which constitutes a department head shall be open to inspection by the public. All such applications shall be kept in a record book, in the office of the city clerk, for a period of one year from the date of filing, provided however, if any applicant requests that his application be kept confidential it shall be so kept and a copy shall not be made available for public inspection. The mayor, and any other official who by reason of his public office or employment becomes aware of such confidential applications, shall respect the request of the applicant and shall not in any way breach the confidentiality requested.

Section 7-9. - Meetings with City Council.

The city council *may*, at least once during its term of office, hold a joint meeting with multiple-member *bodies* of the city for the purpose of sharing information and concerns. Where appropriate, the city council may meet with two or more multiple-member bodies which deal with the same general subject matter, at one meeting. The city council may delegate this responsibility to one or more of its standing committees.

Section 7-10. - Relations with Standing Council Committees.

Minutes of all meetings of all multiple-member bodies shall be filed with the clerk of the city council ~~and the Sawyer Free Library~~. The clerk of the city council shall keep the city council informed of the receipt of all such minutes by noting on the agendas for all meetings of the city council, the minutes of multiple-member bodies received in the period since the previous agenda was prepared.

The city council *may* assign general oversight of multiple-member *bodies* to an appropriate standing committee of the city council in order to effect close coordination and liaison between such multiple-member bodies and the city council.

Section 7-11. - Political Activity.

Any city officer, member of a multiple-member body or city employee may, in his capacity as a private citizen, become involved in a local campaign for the election of a candidate to any city office or a campaign in favor of or in opposition to any other local issue which is to go before the voters of the city or the members of the city council, provided however, that personal participation by such persons shall not be made while actively engaged in his municipal duties and further, that no use whatsoever is made of the facilities, or the title or other description by which the city office, or multiple-member body or city employment which they hold, is known.

Section 7-12. - Management Audits.

(a)

In General — A complete management audit of each city agency shall be made at least once every eight years in order to accomplish the following purposes:

(i)

To identify any areas which hinder or prevent the city agency from performing its assigned responsibilities, goals or objectives and to offer suggestions for the removal of such obstacles and to suggest ways in which the responsibilities, goals or objectives might better be met;

(ii)

To evaluate the adequacy of management practices being utilized in the agency with respect to fiscal controls and use of available personnel and equipment;

(iii)

To suggest specific ways and means by which the functions and services of the agency might be improved.

(b)

Elements to be Considered — Each such management audit shall include, but need not be limited to, a consideration of the following:

(i)

Organization, staffing and manpower;

(ii)

Adequacy of financial controls;

(iii)

Facilities and equipment;

- (iv) Goal setting, long and short range;
 - (v) Procurement practices;
 - (vi) Overtime policies;
 - (vii) Cost comparisons with other municipalities and comparable private enterprise activities.
- (c) *Organization of Reports* — Each management audit shall consist of the following parts:
- (i) Introduction — A brief explanation of methods used;
 - (ii) Scope — A statement of the extent of the examination made;
 - (iii) Major Contacts — A listing of the names of all persons interviewed in the conduct of the audit and an outline of the procedures used;
 - (iv) Findings — Details of the practices found during the audit, which in the opinion of the audit team, require modification or other change in order to strengthen and improve the agency and its performance;
 - (v) Recommendations — Specific suggestions for action either by the agency through changes in its own internal policies or requiring action by the city council, based upon specific findings made.
- (d) *Administration* — The city council shall be responsible for the conduct of all management audits under this section. It shall award all contracts for such audits and shall, through its standing committee on ordinances and city administration, oversee the conduct of all such audits and the implementation of recommendations made therein. The city council may delegate the details of such overview to the city auditor or other designee who shall keep them fully informed of the implementation of the changes suggested in such audit reports by the city agencies concerned.

Section 7-13. - Annual Report of the City.

- (a) *In General* — An annual report which contains a general summary of the activity of all city agencies shall be published. The annual report shall contain reports by the mayor, the city treasurer, city council, the city auditor, the school committee, and such other officers and multiple-member bodies as may be required by ordinance to provide such reports. The annual report *may* be published in a local newspaper or on City's website, for the convenience of the inhabitants, and additional copies shall be made available in the office of the city clerk for distribution upon request.
- (b) *Application Forms to be Included* — A form shall be provided in each annual report upon which voters of the city may make application for appointment as a member of a multiple-member body of the city, which may become vacant during the ensuing year. All such applications shall be retained for a period of three years from their receipt.

State law reference— Annual reports, M.G.L.A. c. 40, § 49.

Section 7-14. - Loss of Office, Excessive Absence.

If any person who is appointed to serve as a member of a multiple-member body shall fail to attend six or more consecutive meetings of the body or more than half of the meetings held in any one calendar year, the mayor shall, after at least seven days written notice of the mayor's intent to do so delivered to the member's place of residence, declare his place to be vacant. In assisting the mayor in his decision, the chairman of the multiple-member body shall provide the mayor with the attendance record of the prior twelve (12) months and any other information that is needed or desired.

(Ref. of 11-3-1987)

Section 7-15. - Personnel Practices.

- (a) *Merit Principle* — All appointments and promotions of city officers, members of multiple-member bodies and city employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence and suitability.
- (b) *Civil Service Probationary Period* — Not less than thirty days before the expiration of any probationary period in which a city employee is serving the immediate supervisor of such employee shall file a written report with a recommendation concerning such probationary employee attaining permanent status with the appointing authority and the mayor. Such report shall be signed by the appointing authority and the mayor and be retained in the personnel file of such employee, and a copy shall be made available to the said employee.
- (c) *Personnel Report* — The mayor shall annually *together, with the submission of the fiscal year budget*, file with the city council standing committee on ordinances and administration, a report listing all persons in the employ of the city and their status as such employee whether regular civil service, provisional civil service or not subject to civil service as the case may be and the date on which their employment by the city commenced in such position.

(Ref. of 11-8-1983)

Code reference—Officers and employees generally, § 2-40 et seq.

State law reference— Civil service, M.G.L.A. c. 31.

Section 7-16. - Director of Public Works.

The director of public works shall be responsible for the supervision of all public works activities of the city, provided however, that the following powers and duties relating to public works shall be exercised in the manner hereinafter indicated:

- (a) Any rate, fee or other charge shall be referred by the director of public works to the mayor for his review. The mayor shall file a notice with the city council of any change in rates, fees or other charges which is proposed and no such rate, fee or other charge shall be effective until it has been approved by the city council or more than ninety days following the filing of notice with the city council has elapsed without action by the

city council;

(b)

All rules and regulations regarding the use of public beaches, parks, playgrounds and other municipal facilities shall be referred by the director of public works to the mayor for his review. The mayor shall file a notice of such proposed rules and regulations with the city council and no such rule or regulation shall become effective until it has been approved by the city council or more than ninety days following the filing of notice with the city council has elapsed without action by the city council.

Code reference—Department of public works generally, § 2-280 et seq.

Sections 7-17, 7-18. - Reserved.

Editor's note—

Former §§ 7-17 and 7-18, designer selection committee and city building committee, have been replaced by §§ 5-4 and 5-5, respectively, of this charter, added by referendum of November 5, 1985.

Section 7-19. - Reports of the City Treasurer.

The city treasurer shall, at least semi-annually, file with the city council a report which contains a detailed listing of all banks, trust companies and other depositories where city funds were held on deposit, whether time deposits or demand deposits, the length of time such funds were so held, the interest if any, earned on such deposits and the average daily balance for the period reported on held in each such depository. Said report shall also contain a listing of all other investments made by the city treasurer within the period covered by the report.

Code reference—City treasurer generally, § 2-70 et seq.

Section 7-20. – City Water Systems Ownership.

The city of Gloucester's water supply and distribution shall be owned by the city and shall not be sold, leased or otherwise transferred unless and until the city council, under section 9-5 ("Submission of Proposed Measure to Voters"), submits the question of sale, lease or transfer of ownership to a referendum vote of the voters for adoption or rejection; provided, however that the sale, lease or transfer of the water supply and distributions systems shall require at least two-thirds of the votes on such question to have approved such sale, lease or transfer. (Amended by Chapter 92 of the Acts of 2011)

FOOTNOTE(S):⁽⁵⁾ *Code reference—Administration generally, ch. 2 (Back)*

ARTICLE 8. NOMINATIONS AND ELECTIONS

Section 8-1. - City Elections: General and Preliminary.

Section 8-2. - Nonpartisan Elections.

Section 8-3. - Preliminary Elections.

Section 8-4. - Regular Election.

Section 8-5. - Special Election for Mayor.

Section 8-6. - Wards.

Section 8-7. - Application of State Laws.

Section 8-1. - City Elections: General and Preliminary.

The regular city election shall be held on the first Tuesday following the first Monday in November in each odd-numbered year.

On the *fifth* Tuesday preceding every regular city election there shall be held a preliminary election for the purpose of nominating candidates.

(Ref. of 11-5-1985)

Section 8-2. - Nonpartisan Elections.

All elections of city officers shall be nonpartisan, and election ballots for such officers shall be printed without any party mark emblem, or designation whatsoever.

Section 8-3. - Preliminary Elections.

(a)

Signature Requirements — The number of signatures of voters required to place the name of a candidate on the official ballot to be used at a preliminary election shall be as follows: for the office of mayor not less than three hundred; for the office of school committee member not less than one hundred-fifty; for the office of councilor at-large not less than one hundred-fifty; and for the office of ward councilor not less than seventy-five signatures of voters of the ward.

(b)

Ballot Position — The order in which names of candidates appear on the ballot for each office shall be determined by a drawing by lot conducted by the city clerk in the presence of such candidates or their representatives.

(c)

Determination of Candidates for Election — The two persons receiving at a preliminary election the highest number of votes for nomination for an office shall be the sole candidates for that office whose names shall be printed on the official ballot to be used at the regular election at which such office is to be filled, and no acceptance of a nomination at a preliminary election shall be necessary to its validity. If two or more persons are to be elected to the same office at such regular election, the several persons in number equal to twice the number so to be elected receiving at such preliminary election the highest number of votes for nomination for that office shall be the sole candidates for that office whose names shall be printed on the official ballot. If the preliminary election results in a tie vote among candidates for nomination receiving the lowest number of votes which, but for said tie vote, would entitle a person receiving the same to have his name printed upon the official ballot for the election, all candidates participating in said tie vote shall have their names printed upon the official ballot, although in consequence there be printed thereon candidates to a number exceeding twice the number to be elected.

(d)

Nomination of Candidates, Conditions Making Preliminary Election Unnecessary — If at the expiration of the time for filing statements of candidates to be voted for at any preliminary election not more than twice as many such statements have been filed with the city clerk for an office as candidates are to be elected to such office, the candidates whose statements have thus been filed shall be deemed to have been nominated to said office, and their names shall be voted on for such office at the succeeding regular election, and the city clerk shall not print said names upon the ballot to be used at said preliminary election and no other nomination to said office shall be made. If in consequence it shall appear

that no names are to be printed upon the official ballot to be used at any preliminary election in any ward or wards of the city, no preliminary election shall be held in any such ward or wards.

Section 8-4. - Regular Election.

Ballot Position — The order in which names of candidates appear on the ballot for each office in a regular city election shall be determined by a drawing by lot conducted by the city clerk in the presence of such candidates or their representatives.

Section 8-5. - Special Election for Mayor.

Whenever a special election is to be held for the office of mayor under the provisions of section 3-11(a), no preliminary election shall be held. All candidates who file nomination papers which are certified by the board of registrars of voters to contain the number of signatures of voters required by section 8-3(a) shall be entitled to have their names appear upon the ballot for the said election. The candidate who receives the highest number of votes shall be declared elected.

Section 8-6. - Wards.

The territory of the city shall be divided into five wards so established as to consist of as nearly an equal number of inhabitants as it is possible to achieve based on compact and contiguous territory, bounded insofar as possible by the center line of known streets or ways or by other well-defined limits. Each ward shall be divided into voting precincts in accordance with state statutes. The city council shall from time to time review such wards to insure their uniformity in number of inhabitants.

Code reference—Wards and precincts generally, § 7-15 et seq.

Section 8-7. - Application of State Laws.

Except as expressly provided in the charter and authorized by state law, all city elections shall be governed by the laws of the commonwealth relating to the right to vote, the registration of voters, the nomination of candidates, the conduct of preliminary, regular, and special elections, the submission of charter amendments and other propositions, the counting of votes, and the declaration of results.

State law reference—Applicability of state election laws, M.G.L.A. c. 43B, § 17.

FOOTNOTE(S):⁽⁶⁾ *Code reference—Elections generally, ch. 7 ([Back](#))*

⁽⁶⁾ **State Law reference**— Election of officers, M.G.L.A. c. 41, § 1 et seq.; method of electing officers, M.G.L.A. c. 43B, § 18; elections generally, M.G.L.A. cs. 50—57. ([Back](#))

ARTICLE 9. FREE PETITION; INITIATIVE; REFERENDUM; *RECALL*

Section 9-1. - Free Petition.

Section 9-2. - Citizen Initiative Measures.

Section 9-3. - Citizen Referendum Procedures.

Section 9-4. - Initiative and Referendum; Ineligible Measures.

Section 9-5. - Submission of Proposed Measure to Voters.

Section 9-6. - Measures with Conflicting Provisions.

Section 9-7. - Advisory Questions to Voters.

Section 9-8. - Recall — City of Gloucester.

Section 9-1. - Free Petition.

(a)

Individual Petitions, Action Discretionary — The city council and the school committee shall receive all petitions signed by one or more voters and addressed to either of them and may, in their discretion, take such action in regard to such petitions as they deem necessary and advisable.

(b)

Group Petitions, Action Required — The city council or the school committee shall hold a public hearing and act with respect to every petition which is addressed to it and which is signed by at least one hundred-fifty voters. The hearing shall be held by the city council or the school committee, or in either case, by a committee or subcommittee thereof, and the action by the city council or school committee shall *commence* not later than three months after the petition is filed with the clerk of the council or secretary of the school committee. Hearings on two or more petitions filed under this section may be held at the same time and place. The clerk of the council or the secretary of the school committee shall mail notice of the hearing to the ten petitioners whose names first appear on each such petition at least seven days before the hearing. The city council or the school committee shall publish in one or more local newspapers a general summary of the subject matter of such petitions and a notice stating: (1) the times and places where copies of the citizen petitions are available for inspection by the public, and (2) the date, time, and place not less than two weeks after such publication, when a public hearing on said petitions will be held by the city council or school committee.

Section 9-2. - Citizen Initiative Measures.

(a)

Commencement of Proceedings — Initiative procedures shall be started by the filing of an initiative petition with the clerk of the council or [the] secretary of the school committee[,] as may be. The petition shall be addressed to the city council or to the school committee, shall contain a request for passage of a particular measure set forth in the petition, and shall be signed by not less than ten per cent of the total number of voters. Signatures to initiative petitions need not be all on one paper. All such papers pertaining to any one measure shall be fastened together and shall be filed in the office of the registrars of voters as one instrument, with the endorsement thereon of the name and address of the person designated as filing the same. With each signature to the petition shall be stated the place of residence of the signer, giving the street and number, if any. Within five days after the filing of said petition[,] the registrars of voters shall ascertain by what number of voters the petition is signed, and what percentage that number is of the total number of voters, and shall attach thereto their certificate showing the result of such examination. The registrars of voters shall hold the petition and their certificate available for public inspection during ordinary office

hours for two full days, and unless written objections to the certificate of the registrars of voters are filed by a voter within said period, the registrars of voters certificate shall be deemed conclusive. If objections are so filed, they shall be disposed of forthwith in the manner provided by general laws, chapter 53. If no objections are so filed, the registrars of voters shall forthwith transmit the said certificate with the said petition to the city council or to the school committee, according as the petition is addressed, and at the same time shall send a copy of said certificate to the person designated on the petition as filing the same.

(b)

Referral to City Solicitor — If the registrars of voters determine that a sufficient number of the signers are voters, the clerk of the council or the secretary of the school committee shall transmit a copy of the petition to the city solicitor. Within fifteen days after his receipt of the petition the city solicitor shall advise the clerk of the council or the secretary of the school committee in writing whether the measure may be proposed by initiative procedures and whether it may lawfully be passed by the city council or the school committee. If the opinion of the city solicitor is that the measure may not lawfully be passed, he shall state his reason or reasons therefor in his reply. The clerk of the council or the secretary of the school committee shall furnish a copy of the solicitor's opinion to the person designated on the petition as filing the same and to the first ten petitioners.

(c)

Action on Petition — Within thirty days after an initiative petition is presented to the city council or the school committee, and after publication and a public hearing, in the same manner as provided in section 2-11(e) for ordinances and loan orders, the city council or the school committee shall act with respect to the initiative measure by passing it without change, or by rejecting it, or by passing some other measure stated to be in lieu thereof. The passage of a measure in lieu of an initiative measure shall be deemed a rejection of the initiative measure. If the city council or the school committee fails to act with respect to the initiative measure as required by this section within thirty days after presentation, the measure shall be deemed to have been rejected on the thirtieth day after presentation. If an initiative measure is rejected, the clerk of the council or secretary of the school committee shall promptly give written notice of that fact to the first ten petitioners. Initiative measures shall not be subject to charter objections as provided in section 2-11(c).

(d)

Supplemental Petitions — Within forty-five days after notice of the rejection of an initiative measure has been given by the clerk of the council or secretary of the school committee, a supplemental initiative petition addressed to the city council or the school committee may be filed in the office of the registrars of voters. The supplemental initiative petition shall be signed by a number of additional voters which is at least equal to five per cent of the total number of voters. If the number of signatures to a supplemental initiative petition is deemed sufficient by the registrars of voters, the city council shall provide for submission of the initiative measure to the voters at the next regular city election. The provisions of section 9-2(a) shall apply insofar as applicable to such petition.

(e)

Immediate Submission to Voters — If the supplemental initiative petition is signed by a number of additional voters which is at least equal to ten per cent of the total number of voters as aforesaid, the city council shall call a special election to be held on a Tuesday fixed by it not less than thirty nor more than forty-five days after the date of the certificate hereinbefore mentioned, and shall submit the proposed measure without alteration to a vote of the voters at that election; provided, that if any city election is otherwise to occur within one hundred and twenty-five days after the date of said certificate, the city council may, at its discretion, omit calling the special election and submit the proposed

measure to the voters at such approaching election.

- (f) *Publication* — The full text of the measure shall be published in at least one local newspaper at least seven days before the election at which the question is to appear on the ballot.
- (g) *Form of Ballot* — The ballots used when voting upon a proposed measure under this section shall contain a question in substantially the following form:
Shall the following measure which was proposed by an initiative petition take effect?
(Text of measure or a fair, concise summary prepared by the city solicitor and approved by the registrars of voters) Yes No
- (h) *Time of Taking Effect* — If a majority of the votes cast on the question is in the affirmative the measure shall be deemed to be effective forthwith, unless a later date is specified in the measure.

State law reference— Provisions relating to initiative petitions, M.G.L.A. c. 43, § 37 et seq.

Section 9-3. - Citizen Referendum Procedures.

- (a) *Referendum Petition, Effect on Final Approval* — If, within twenty-one days after the final approval of any measure by the city council or by the school committee, a petition signed by voters equal in number to at least ten percent of the total number of voters, and addressed to the city council or to the school committee as the case may be, protesting against such measure or any part thereof taking effect, is filed in the office of the registrars of voters the same shall thereupon and thereby be suspended from taking effect. The city council or the school committee, as the case may be, shall forthwith reconsider such measure or part thereof; and if such measure or part thereof is not entirely rescinded, the city council shall submit the same, by the method herein provided, to a vote of the voters either at the next regular city election, or at a special election which may, in its discretion, be called for the purpose, and such measure or part thereof shall forthwith become null and void unless a majority of the voters voting on the same at such election vote in favor thereof.
- (b) *Certain Initiative Procedures to Apply* — The petition described in this section shall be termed a referendum petition and insofar as applicable sections 9-2(a), (b), and (f), shall apply to the procedure in respect thereto, except that the words "measure or part thereof protested against" shall for this purpose be understood to replace "measure" in said section whenever it may occur, and "referendum" shall be understood to replace the word "initiative" in said section.

State law reference— Provisions relating to referendum petitions, M.G.L.A. c. 43, § 42 et seq.

Section 9-4. - Initiative and Referendum; Ineligible Measures.

None of the following measures shall be subject to initiative or referendum procedures: (1) proceedings relating to the organization or operation of the city council or school committee, (2) an emergency measure adopted in conformity with the charter, (3) the city budget or the school committee budget as a whole, (4) revenue loan orders, (5) any appropriations for the payment of the city's debts or obligations, (6) appropriations of funds necessary to implement a written agreement executed under collective bargaining, (7) any proceedings, or part thereof, relating to the election, employment, appointment,

suspension, transfer, demotion, removal or discharge of any city officer or employee, (8) any proceedings repealing or rescinding a measure, or a part thereof, which is protested by referendum procedure and (9) any proceeding providing for the submission or referral of a matter to the voters at an election.

Section 9-5. - Submission of Proposed Measure to Voters.

The city council may, of its own motion, and shall, upon request of the school committee if a measure originates with that committee and pertains to the affairs under its administration, submit to a vote of the voters for adoption or rejection at a general or special city election any proposed measure, or a proposition for the repeal or amendment of any measure, in the same manner and with the same force and effect as are hereby provided for submission on petition.

Section 9-6. - Measures with Conflicting Provisions.

If two or more proposed measures passed at the same election contain conflicting provisions, only the one receiving the greater number of affirmative votes shall take effect.

Section 9-7. - Advisory Questions to Voters.

At each regular city election there may appear on the ballot up to three nonbinding advisory questions to determine voter sentiment. Two of these questions shall be proposed by the city council and shall deal with the affairs of the city in general. The third question may be posed by the school committee and shall, if so used, deal with a question relating to affairs under its jurisdiction. In the event that the city council or the school committee do not use the questions allowed them under this section, the city council or school committee may propose up to three questions.

Within three months following the organization of the city government following each election the city council or the school committee shall take up the subject matter of the advisory questions which were proposed by it and act upon their merits.

Nothing in this section shall preclude the public from initiating an advisory question under General Laws chapter 53 section 18A and article 9 of the city charter.

(Ref. of 11-3-1987)

Section 9-8. - Recall — City of Gloucester.

The holder of any elective office may be removed at any time by the voters qualified to vote at city elections, and the procedure to effect his removal shall be as follows: a petition signed by a number of the voters of the city qualified to vote at city elections equal to at least twenty per cent of the aggregate number of registered voters in the city, and demanding an election of a successor of the person sought to be removed, shall be filed in the office of the city clerk. The petition shall contain a general statement of the grounds for which the removal is sought. It need not be on one paper, but may consist of several distinct papers, each containing the said demand, and substantially upon the same grounds; and all papers containing such demand and statement, which in any one day shall be filed in the office of the city clerk, shall be deemed parts of the same petition. Each signer shall add to his signature his place of residence, on the preceding first day of January, giving the street and the street number if any. One signer of every such paper shall make oath upon his information and belief, before a notary public or a justice of the peace, that the statements therein made are true, and that each signature to the paper is the genuine signature of the person whose name it purports to be.

Within ten days after the date of filing the petition, the city clerk, with the assistance of the registrars of voters, shall examine the petition to ascertain whether or not it is signed by the required number of qualified voters, as above described, and shall attach to the petition a certificate, showing the result of his examination.

If the petition is certified by the city clerk to be sufficient, he shall present the same to the city council without delay, and the city council shall call an election so demanded, and fix a date for holding the same, which shall not be less than thirty nor more than forty-five days after the date of the presentation of the petition by the city clerk to the city council. The city clerk shall make or cause to be made all arrangements for holding such election, and the same shall be held and conducted, returns thereof made and the results thereof declared in all respects as in the case of other city elections. The successor of any elected official so removed shall hold the office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate at the election, and unless he requests otherwise in writing, the city clerk shall place his name on the official ballots without nomination. The candidate receiving the highest number of votes shall be declared elected. If some person other than the incumbent received the highest number of votes, the incumbent shall thereupon be deemed to be removed from office. In case a person, other than the incumbent, receiving the highest number of votes shall fail to make oath before the city clerk or a justice of the peace, within five days after his election, faithfully to perform the duties of the office, the office shall be deemed vacant. If the incumbent receives the highest number of votes, he shall continue in office until the end of the term which he was serving at the time of the said election, unless sooner removed therefrom by new and like proceedings. The name of no candidate, other than that of the person sought to be removed, shall be printed on the official ballots to be used at the election, unless the candidate be nominated as hereinbefore provided, at a preliminary election for nomination.

No recall petition shall be filed against an elected official of said city within three months after he takes office, nor in the case of an officer subjected to a recall election and not removed thereby, until at least six months after that election.

No person who has been recalled from an office in said City of Gloucester, who has resigned from office while recall proceedings were pending against him, shall be appointed to any city office within five years after such removal by recall or resignation. This shall not preclude any person from running for elected office within said city.

(Ref. of 11-5-1985)

FOOTNOTE(S):

⁽⁷⁾ Code reference—*Elections generally, ch. 7 (Back)*

ARTICLE 10. GENERAL PROVISIONS

Section 10-1. - Charter Changes.

Section 10-2. - Severability.

Section 10-3. - Specific Provisions Shall Prevail.

Section 10-4. - Rules and Regulations.

Section 10-5. - Reenactment and Publication of Ordinances.

Section 10-6. - Procedures.

Section 10-7. - Number and Gender.

Section 10-8. - References to General Laws.

Section 10-9. - Definitions.

Section 10-10. - Certificate of Election and Appointment; Oath of Office.

Section 10-1. - Charter Changes.

(a)

In General — This Charter may be replaced, revised or amended in accordance with the procedures made available by article LXXXIX (eighty-nine) of the amendments to the state constitution and any legislation enacted to implement the said amendment.

(b)

Periodic Review — The city council standing committee on ordinances and administration shall in each year ending in zero review the charter and submit a report with recommendations to the full city council concerning any proposed amendments or revisions to the charter.

Section 10-2. - Severability.

The provisions of the charter are severable. If any provision of the charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstances is held invalid, the application of the charter and its provisions to other persons and circumstances shall not be affected thereby.

Section 10-3. - Specific Provisions Shall Prevail.

To the extent that any specific provision of the charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

Section 10-4. - Rules and Regulations.

A copy of all rules and regulations adopted by any city agency shall be filed in the office of the city clerk and made available for review by any person who requests such information and no such rule or regulation shall become effective until it is so filed.

Section 10-5. - Reenactment and Publication of Ordinances.

The city council shall at five-year intervals cause to be prepared a proposed revision or recodification of all city ordinances which shall be submitted to the city council for reenactment. The city council shall adopt the proposed revision or recodification with or without amendment prior to the expiration of the calendar year in which it is submitted to them. Such revisions or recodifications shall be prepared under the supervision of the city solicitor, or city clerk, or if the city council so directs, by special counsel retained for that purpose. Copies of the revised or recodified ordinances shall be made available for distribution, provided however, that a charge not to exceed the actual cost per copy of reproduction may be charged.

In each year between such reenactments[,] an annual supplement shall be published which shall contain all ordinances and amendments to ordinances adopted in the preceding year.

Section 10-6. - Procedures.

- (a) *Meetings* — All multiple-member bodies of the city, whether elected or appointed or otherwise constituted, shall meet regularly at such times and places within the city as they may prescribe. Special meetings of any multiple-member body shall be held on the call of the respective chairman or by one-third of the members thereof by written notice delivered in hand or to the residence or place of business of each member at least twenty-four hours in advance of the time set. A copy of the said notice shall also be posted on the city bulletin board(s). Special meetings of any multiple-member body shall also be called within one week after the date of the filing with the city clerk of a petition signed by at least one hundred fifty voters and which states the purpose or purposes for which the meeting is to be called. Except as otherwise authorized by general laws, all meetings of all multiple-member bodies shall be open to the public and to the press.
 - (b) *Rules and Minutes* — Each multiple-member body shall determine its own rules and order of business unless otherwise provided by the charter or by law and shall provide for keeping *minutes* of its proceedings. These rules and *minutes* shall be a public record, and certified copies of each shall be placed on file in the office of the city clerk.
 - (c) *Voting* — If requested by any member, any vote of any multiple-member body shall be taken by a roll call vote and the ayes and nays shall be recorded in the *minutes*, provided, however, that if the vote is unanimous, only that fact need be recorded.
- Each multiple-member body shall establish and maintain, by its own rules, a list of specific types of actions which will require an accompanying statement of purpose. The statement of purpose shall contain the reasons why the majority of the multiple-member body voted for or against. Such statements shall be entered upon the records of the multiple-member body, in full, for the purpose of providing guidance to future bodies regarding matters that might again be brought before the body, matters that might be the subject of court action, or any other matter requiring the intent of the members of the multiple-member body when voting.
- (d) *Quorum* — A majority of the members of a multiple-member body shall constitute a quorum, but a smaller number may adjourn from time to time.
 - (e) *Filings with Multiple-Member Bodies* — Unless otherwise provided by statute, the charter, or by ordinance, all applications or petitions which are to be acted upon by a multiple-member body shall be made in the first instance with and to the full multiple-member body. A record shall be made in the minutes of the receipt of all such applications or petitions. The multiple-member body may, upon such receipt, by vote, refer such matters to a sub-committee, or to a paid employee for negotiation, solicitation or further information, or otherwise, to report back to the full multiple-member body before any final action is taken on the matter.

Section 10-7. - Number and Gender.

Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; and words importing the masculine gender shall include the feminine gender.

Section 10-8. - References to General Laws.

All references to the general laws contained in the charter refer to the general laws of the Commonwealth of Massachusetts and are intended to include any amendments or revisions to such chapters and sections or to the corresponding chapters and sections or any rearrangement of the general laws enacted subsequent to the adoption of the charter.

Section 10-9. - Definitions.

Unless another meaning is clearly apparent from the manner in which the word is used, the following words as used in the charter shall have the following meaning:

- (a) *Charter* — The word "charter" shall mean this charter and any amendments to it made through any of the methods provided under Article LXXXIX (eighty-nine) of the amendments to the State Constitution.
- (b) *City* — The word "city" shall mean the City of Gloucester.
- (c) *City Agency* — The words "city agency" shall mean any board, commission, committee, department or office of the city government.
- (d) *Emergency* — The word "emergency" shall mean a sudden, unexpected, unforeseen happening, occurrence, or condition which necessitates immediate action.
- (e) *Full Council* — The words "full council" shall mean the entire authorized complement of the city council notwithstanding any vacancies which might exist.
- (f) *Full School Committee* - The words "full school committee" shall mean the entire authorized complement of the school committee notwithstanding any vacancies which might exist.
- (g) *Initiative Measure* — The words "initiative measure" shall mean a measure proposed by initiative procedures under the charter.
- (h) *Local Newspaper* — The words "local newspaper" shall mean a newspaper of general circulation within the City of Gloucester.
- (i) *Majority Vote* — The words "majority vote" shall mean a majority of those present and voting, provided that a quorum of the body is present.
- (j) *Measure* — The word "measure" shall mean an ordinance adopted or which could be adopted by the city council, or an order, resolution, vote or other proceeding adopted or which could be adopted by the city council or the school committee.
- (k) *Municipal Facilities* - shall mean use of land or structures by the City of Gloucester for purposes of public maintenance and operations, public utilities, public works, and other similar public functions, and for public beaches, parks, playgrounds, parking areas, and other similar public uses.

- (l) *Multiple-Member Body* — The words "multiple-member body" shall mean any appointed body consisting of two or more members.
- (m) *Planning Board* — The words "planning board" shall mean any other board or office performing the duties of a planning board for the city.
- (n) *Ref. Measure* — The words "referendum measure" shall mean a measure protested by referendum procedures under the charter.
- (o) *Voters* — The word "voters" shall mean registered voters of the City of Gloucester.

Section 10-10. - Certificate of Election and Appointment; Oath of Office.

Every person who is elected, including those elected by the city council, or appointed by the mayor to an office shall receive a certificate of such election or appointment from the city clerk.

Except as otherwise provided by law, before performing any act under his election or appointment, he shall take and subscribe to an oath to qualify him to enter upon his duties. A record of the taking of such oath shall be made by the city clerk. An oath required by this section may be administered by the mayor or any officer authorized by law to administer oaths.

State law reference— Oath of office for city officers, M.G.L.A. c. 41, § 107.

